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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 17 April 2003 from the Permanent Mission of Cuba to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Cuba to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit the report submitted by the Government of Cuba pursuant to Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 17 April 2003 from the Permanent Mission of Cuba to the United Nations addressed to the Chairman of the Committee

Report submitted by the Republic of Cuba pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

The Government of the Republic of Cuba has never recognized or maintained any economic or commercial relations with Osama bin Laden, the al-Qa`idah network or the Taliban regime. On the contrary, it has maintained diplomatic relations with the Government-in-exile which has always been recognized by the United Nations.

The Government of the Republic of Cuba has taken all necessary measures to ensure compliance with Security Council resolution 1455 (2003) of 17 January 2003 relating to the item entitled "Threats to international peace and security caused by terrorist acts". To that end, on 20 December 2001, the National Assembly of People's Power of the Republic of Cuba, at the eighth regular session of its fifth legislature, held on 20 and 21 December 2001, adopted Law No. 93, the Law against Acts of Terrorism, the full text of which appears in the report of the Republic of Cuba submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001), circulated as an official document of the Security Council (S/2002/15).

Since 1997, following the entry into force of Resolution No. 91/97 of the Minister-President of the Central Bank of Cuba, the Cuban banking and financial system has been implementing systematic measures for the prevention and detection of illicit capital flows.

For that purpose, all commercial banks licensed by the Central Bank of Cuba to open accounts for natural and legal persons, whether Cuban or foreign, regardless of their place of residence and of their business in or with Cuba, now use as an everyday tool internationally-recognized concepts such as "due diligence" and "know your customer". These two concepts are described in each bank's instruction and procedures manual and their application is monitored through internal audit by its central and regional offices.

Other banks, those not authorized to collect funds from customers or to open windows for current or savings accounts, also have instruction and procedures manuals incorporating those Central Bank regulations which are relevant to the nature of their business.

Apart from Resolution No. 91/97, the principal regulations introduced since 1997 are contained in Instructions Nos. 1, 2, 8, 17 and 18, all of which complement and enhance the terms of that resolution. In May 2002 the Superintendent of the Central Bank of Cuba issued Instruction No. 19, which enacted 14 guidelines for the prevention and detection of illicit capital flows intended for the financing of acts of terrorism.

It should be noted that the constant terrorist threat to which Cuba has been subjected over the past 40 years has obliged us to continually improve our counter-terrorism system. To that end, measures have been adopted to adapt the system to the existing situation and to the characteristics of the terrorist acts and activities against our people and territory. The following are some of the principal measures introduced over the past five years:

- Border detection systems at ports, airports, and tourist marinas and along the coastline have been strengthened. A thorough study of border vulnerabilities was conducted and a plan for their strengthening was prepared, including State financing amounting to several million United States dollars.
- A central command system for the country's main international airports was organized, to ensure coherence in the functioning of the various bodies involved in border matters.
- Staffing and communications in operational border units have been enhanced.
- Equipment for the detection of explosives has been purchased, and film and X-ray systems at border checkpoints have been improved.
- The availability and use of dogs trained in the detection of explosives have been increased.
- Training in detection of terrorist activities has been provided to Cuban staff who work in the areas of aviation and port operations and perform their duties in high-risk countries.
- Specialized training has been given to the crews of ships which travel to high-risk countries and to staff working in Cuban airport facilities. On occasion, when the operational situation calls for it, the aforementioned crews are joined by explosives experts or by operational personnel.
- Steps have been taken to strengthen the capacity to monitor suspicious persons as soon as they enter the air terminal area.
- Detection systems have been set up at the border checkpoints of the main international marinas.
- Coastal security and protection systems have been improved.
- The patrol and protection capacity of border guards has been increased.
- Security, protection and monitoring systems have been restructured at tourist facilities and the country's main economic structures.
- A specialized unit known as TEDAX (*Técnicos en Desactivación de Artefactos Explosivos*) has been created, specializing in the detection and deactivation of explosive charges.
- A methodology for dealing with terrorist acts and discoveries of explosive artefacts has been elaborated and distributed to the security forces.
- Personnel involved in the detection of explosives have received priority training, including the provision of charts describing signs to be looked for, demonstrations of methods used in such situations, and instruction in the use of sophisticated detection equipment.

A unit of the Ministry of the Interior works at all international airports and border checkpoints in order to ensure coherent integration among all organs of the Ministry, the armed forces and the State having responsibilities for the country's borders, in order to prevent criminal activities such as terrorism.

Also involved in this system is the national customs authority (Aduana General de la República) whose functions include controlling the entry of goods into the country in order to curb the activities of international smugglers and prevent the entry of items such as explosives, arms and drugs.

On a daily basis, this border monitoring system studies advance information on flights, coordinates the acquisition and use of explosives detection equipment and X-ray equipment at border checkpoints, the availability and use of dogs trained in the detection of explosives, drugs and other dangerous substances, and the selective visual checks used for monitoring suspicious persons as they enter the country.

These procedures, with the appropriate variations in their organization, are applied at the border checkpoints of the country's principal marinas and international ports.

The Cuban security authorities maintain relations with a number of foreign intelligence services. These mechanisms are used for the timely exchange of information on persons suspected of involvement in activities against Cuba or which might endanger third States.

Recently, Cuba officially proposed to the United States of America that the two countries should enter into three bilateral cooperation agreements in the area of combating terrorism, drug trafficking and illegal migration. The United States Government rejected the Cuban proposal.

As a preventive measure, training in the detection of terrorist activities is provided to Cuban personnel working in aviation and port operations in countries considered to be high-risk areas. When necessary in particular cases, the crews of ships sailing to foreign countries and personnel working at foreign airports are joined by experts in explosives and other security matters.

Furthermore, title I, article 2 of Law No. 93 also penalizes any preparatory acts detected by the authorities within Cuban territory, where those activities demonstrate the intention of carrying out terrorist acts in foreign countries.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The consolidated list was distributed by means of a letter circulated by the Superintendent of the Central Bank of Cuba to banks and non-banking financial institutions. The letter instructed the central offices of the banks to send copies to all levels down to branch offices where required. All the financial institutions were requested to set up a streamlined operational mechanism to keep the list updated so that it could be consulted whenever necessary, in dealing with a foreign customer coming from any foreign country or countries where the al-Qa'idah terrorist organization is believed to be or suspected of being present.

All financial institutions were provided with the address of the United Nations web site where the list is located, in order to keep it updated at all times.

The Ministry of the Interior has a database containing the names of all individuals and organizations known to have links with international terrorism. The database is updated with data from the International Criminal Police Organization (Interpol) and other foreign security entities, in addition to the list provided by the United Nations.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

To date, neither the Ministry of the Interior nor the Cuban banking system has encountered any problems with implementation in relation with the individuals identified on the current list.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

To date, neither the Ministry of the Interior nor the Cuban banking and financial system has detected any entry into the country or any financial activity related to the designated individuals or entities.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa`idah that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

Not applicable. There are no individuals or entities which have not been included in the list.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No lawsuits or legal proceedings have been brought.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

None of the listed individuals is a national or resident in the territory of the Republic of Cuba. No information is available relating to individuals included in the list.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.

As explained in the introduction to this report, Cuban legislation, particularly Law No. 93 (the Law against Acts of Terrorism), provides legal authority for the actions of our security services, which use the national alert system designed to detect preparatory acts demonstrating the intention of carrying out terrorist acts

either in Cuba or abroad. In the latter case, the measures provided for include the appropriate sharing of information with the security services of the countries affected.

Law No. 93 comprises provisions prohibiting recruitment of persons into terrorist groups and categorizes the types of conduct defined in international counter-terrorism agreements. Article 10 of the Law provides that anyone who manufactures, supplies, sells, transports, sends, brings into the country or has in his possession in any manner or place, arms, ammunition or flammable materials, plastic explosives or explosive or deadly substances, is subject to 10 to 30 years' imprisonment, life imprisonment or death.

Article 5 of the Law also makes it an offence to:

- Propose to another person or persons that they participate in carrying out acts of terrorism;
- Conspire with one or more persons to commit the offences envisaged in this Law; or
- Incite or induce any person to commit such offences.

Articles 26 to 28 of the Law also penalize the following:

- Concealment of acts of terrorism;
- Failure to report such acts;
- Any other act that is not punished more severely by law but which aims to achieve terrorist ends.

The latter offence is also envisaged in Law No. 62 (the Penal Code), Title I of which relates to offences against State security. Chapter II, section 7, article 106 provides for the offence of terrorism, with penalties ranging from 10 to 20 years' imprisonment, or death.

Chapter X of the Penal Code relates to the illegal possession and bearing of firearms or explosives. Articles 211 to 213 provide for penalties ranging from fines to six months to 10 years' imprisonment, depending on the following:

- The type of weapon;
- The activity involved and its location;
- Whether the weapon is possessed or carried;
- Manufacture;
- Sale or loan of firearms or explosives.

There have never been al-Qa'idah training camps in the territory of the Republic of Cuba, nor are the authorities aware of any relations between natural or legal persons in Cuba with al-Qa'idah or its members.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

NOTE: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.[1]

9. Please describe briefly:

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

Concerning the freezing of assets, the Central Bank of Cuba has enacted the appropriate rules in order to freeze any type of financial or economic asset deposited in a bank account funded from any illegal activity. The same applies when it is verified that such assets may be used for the financing of terrorist acts within or outside Cuban territory.

On 7 May 2002 the Superintendent of the Central Bank of Cuba enacted Instruction No. 19, which applies to banks and non-banking financial institutions having offices in Cuban territory and comprises 14 guidelines for combating the financing of terrorism. In their drafting, account was taken of the provisions of Law No. 93 (the Law against Acts of Terrorism) of 20 December 2001, of the International Convention for the Suppression of the Financing of Terrorism (United Nations, 1999), of Security Council resolution 1373 (2001) of 28 September 2001 and of the eight Special Recommendations on Terrorist Financing of the Financial Action Task Force on Money Laundering (FATF) of the Organisation for Economic Cooperation and Development (OECD), dated 31 October 2001.

Since 1997, following the entry into force of Resolution No. 91/97 of the Minister-President of the Central Bank of Cuba (see annex I), the Cuban banking and financial system has been implementing systematic measures for the prevention and detection of illicit capital flows.

For that purpose, all commercial banks licensed by the Central Bank of Cuba to open accounts for natural and legal persons, whether Cuban or foreign, regardless of their place of residence and of their business in or with Cuba, now use as an everyday tool internationally-recognized concepts such as "due diligence" and "know your customer". These two concepts are described in each bank's instruction and procedures manual and their application is monitored through internal audit by its central and regional offices.

[1] From the International Convention for the Suppression of the Financing of Terrorism, 1999.

Other banks, those not authorized to collect funds from customers or to open windows for current or savings accounts, also have instruction and procedures manuals incorporating those Central Bank regulations which are relevant to the nature of their business.

The Cuban banking and financial system is equipped with computer programmes and others are being developed with a view to ensuring maximum oversight of all customer transactions and to assemble all customer information so that internal transactions, transfers to or from Cuba and any other financial activity carried out with funds from the account can be monitored.

In late 1997, the Minister-President of the Central Bank of Cuba issued a Resolution with a view to ensuring compliance with the "due diligence" requirement (Resolution No. 27, dated 7 December 1997). This Resolution established the Central Risk Information Office (CIR), whose statutes provide that its main goal is to "collect, process and disseminate information on delinquent debtors, suspicion or knowledge of money-laundering, irregularities in the issue of cheques, and criminal or fraudulent acts in relation to financial transactions in financial institutions or in associations or enterprises with which those institutions have financial dealings."

The main rules enacted since 1997, other than the aforementioned Resolution No. 91/97 and Resolution No. 27 of 7 December 1997, are Instructions Nos. 1, 2 (see annex 2), 8, 17 and 18, all of which complement and enhance the terms of Resolution No. 91/97.

Article 28 of Law No. 62 (the Penal Code) of 1987 sets out the main and secondary penalties which are applicable. Subparagraphs 3 (f) and (g) provide for seizure and confiscation of assets.

Articles 135, 215, 218, 228, 229 and 230 of the Law on Criminal Procedure (Law No. 5 of 1977) establish the duty to seize instruments or effects of any kind which may be related to a criminal offence, to retain them and to arrange for their expert evaluation where appropriate; to enter public or private premises where such documents can be seized and to examine and seize all documents, correspondence, papers or any other items as appropriate where such items may be instruments or effects relating to the offence.

Concerning the freezing of assets, the Central Bank of Cuba has enacted the appropriate rules in order to freeze any type of financial or economic asset deposited in a bank account where it is reliably shown that the money is derived from any type of illegal activity and it is verified that the money may be used for the financing of terrorist acts within or outside Cuban territory.

On 7 May 2002 the Superintendent of the Central Bank of Cuba enacted Instruction No. 19, which applies to banks and non-banking financial institutions having offices in Cuban territory and comprises 14 guidelines for the prevention and detection of illicit capital flows intended to finance acts of terrorism. In their drafting, account was taken of the provisions of Law No. 93 (the Law against Acts of Terrorism) of 20 December 2001, of the International Convention for the Suppression of the Financing of Terrorism (United Nations, 1999), of Security Council resolution 1373 (2001) of 28 September 2001 and of the eight Special Recommendations on Terrorist Financing of the Financial Action Task Force on Money Laundering (FATF) of the Organisation for Economic Cooperation and Development (OECD), dated 31 October 2001.

Instruction No. 19 states that banks must immediately report to the competent departments of the Ministry of the Interior any complex transaction of unusual magnitude and those not having a legitimate economic purpose, providing conclusive evidence that a money-laundering operation is in progress, or where there is reasonable suspicion that funds are linked to or will be used for acts of terrorism. Banks are authorized to block on a preventive basis or to freeze the funds or other financial assets of natural or legal persons, whether Cuban or foreign, who are under suspicion. If investigations reliably prove the guilt of the persons involved, a formal complaint is to be made to the competent court; if the legal proceedings result in a conviction, the balance of the funds in question will be seized by the State.

Paragraphs 2, 3 and 4 of Instruction No. 19 (see annex 3) sets out the requirements and treatment to be applied to entities and/or individuals of any kind involved in the transfer of funds or other financial assets. If there is reasonable suspicion that a transaction relates to or will be used for the financing of terrorist acts, banks must decline to carry out the requested transaction.

Article 1.2 of Law No. 93, the Law against Acts of Terrorism, defines the scope of the Law and states that acts of terrorism shall be deemed to be committed within Cuban territory "whether the accused has carried out in Cuba preparatory acts or actual acts of terrorism, the effects of which are felt in another country, or the acts take place in a foreign country but their effects are felt in Cuba".

Article 8 of Law No. 93 empowers pre-trial judges, government attorneys or the courts to order the preventive attachment or freezing of the funds and other financial assets, or of economic assets or resources of the defendants and of any persons or entities that have acted on behalf of the defendants and entities under the defendants' orders, including funds obtained or arising from assets belonging to or under the control, direct or indirect, of the defendants and of persons and entities associated with them.

Article 9 of Law No. 93 provides that a court may order the confiscation of the defendant's assets, as an accessory penalty, as provided for in article 44 of the Penal Code.

In practice, the procedure for freezing funds and other financial assets takes a full 24 hours from the day and time of the notification of the order issued by any competent court or government attorney in the country. Moreover, the Cuban justice system has granted authority to order such measures to judges, government attorneys and security officials.

Where there is irrefutable evidence that a money-laundering operation is in progress and that the funds may be used for the financing of terrorist acts, banks are authorized to preventively attach or to freeze such funds, regardless of the nationality of the owner (whether a natural or a legal person) or his place of residence.

Where a request is made by another country for the freezing of the funds of non-residents and entities that support terrorism abroad, the Central Bank of Cuba, while respecting due process and subject to the laws of Cuba, is fully disposed to cooperate.

To date, no financial institution has been penalized, since they have been reporting any possibly suspicious operation, as required by the Central Bank of Cuba. The Bank's oversight officers, who are stationed in bank branches in each municipality and are responsible for the investigation on the spot of any operation that arouses suspicion, play an important role in this area.

The Bank Oversight Division of the Central Bank is currently working on making uniform, redrafting and modernizing Instructions Nos. 1 and 2, with a view to consolidating all the norms contained in Resolution No. 91 of 1997 into only two instructions.

(b) Thus far, no impediments have been encountered under domestic law in this context to the implementation of the measures contained in resolutions 1267 (1999) and 1390 (2002) of the Security Council.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa`idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

Under the banking and financial system, banks and non-bank financial institutions have together established a technical committee for the prevention of fraud, whose principal task is to prevent fraud and to confront any customers who might attempt to use the system for money-laundering. In addition, each bank branch has a fraud prevention committee and an oversight officer.

Both the fraud prevention committee and the oversight officer are authorized to cooperate and exchange information with law enforcement agencies responsible for investigating suspicious customers. They carry out these activities in strict compliance with the regulations of the Central Bank of Cuba on banking secrecy.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa`idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements.[2] Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

The instruction and procedures manuals of all bank branches in Cuba contain provisions for meeting the requirements set out in the above-mentioned Instruction No. 19. The banking and financial system also has a comprehensive set of mandatory norms that first lists the elements and tools needed to "know your customer". A guide is also being introduced that includes personal and organizational data on possible Cuban or foreign customers, whether these are natural or legal persons, irrespective of their place of residence.

On the question of due diligence, each of the main offices of the system has a monitor who is responsible for, inter alia, the daily review of all customer transactions that depart from the normal pattern. The officer also cooperates with other financial institutions and with the investigative organs of the Ministry of the

[2] For details see the third report of the Monitoring Group, of 17 December 2002 (S/2002/1338, chap. V, paras. 27-29).

Interior through the exchange of information on suspicious customers. When opening an account, each customer is also required to enter into a contract that sets out the rights and duties of the parties.

In preparing contracts for foreign customers, banks endeavour to obtain information on the use and estimated volume of movements on the account, the type of business, source of funds and the amount to be deposited. Enquiries are made through correspondent banks about the customer's financial and economic resources.

The Cuban banking and financial system is equipped with computer programmes and others are being developed with a view to ensuring maximum oversight of all customer transactions. These programmes provide access to all customer information so that internal transactions, transfers to or from Cuba, and any other financial activity carried out with funds from the account can be monitored.

In addition, in order to comply with the "due diligence" requirement, in late 1997 the Central Risk Information Office (CIR) was established by a resolution of the Minister and President of the Central Bank of Cuba, as indicated on page 11 of this report.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **Identification(s) of the persons or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **The value of assets frozen.**

To date, the banking and financial system of Cuba has detected none of the listed persons or entities attempting to use our banks or non-bank financial institutions.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the al-Qa'idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

There has been no unfreezing of any funds, financial assets or economic resources, since to date Cuba's banking and financial system has not been used by persons or entities alleged to be members of al-Qa'idah or related to Osama bin Laden.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their

territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa'idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**

All banks and non-bank financial institutions have received the list and are complying satisfactorily with the 14 Guidelines contained in Instruction No. 19 issued by the Superintendent of the Central Bank of Cuba for the prevention and detection of possible illicit financial transactions for the benefit of individuals or entities alleged to belong to or to be associated with al-Qa'idah. The principal methodology used is the daily review of all customer transactions, the application of "due diligence", and use of all necessary means to get to "know the customer".

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated;**

Banking regulations for the prevention and detection of money-laundering operations in our financial institutions require all staff serving national or foreign customers to report as a suspicious transaction any attempt to conclude a transaction that departs from the normal pattern of transactions for the customer in question. The oversight officer reviews the information with the assistance of other specialists from the financial institution. The result of the analysis is reported to the appropriate organ of the Ministry of the Interior, which conducts the necessary investigations and appropriate evaluation to determine whether or not it represents an attempt at money-laundering. The Central Risk Information Office also receives reports on possible money-laundering operations.

- **Requirements, if any, placed on financial institutions other than banks to provide STRs, and how such reports are reviewed and evaluated;**

Non-bank financial institutions are also required to report suspicious transactions, cooperate with the Ministry of the Interior and report to the Central Risk Information Office. Under our banking and financial system, other legal entities or natural persons (notaries, attorneys or financial managers) are not authorized to engage in any kind of financial activity.

In evaluating any report of a suspicious transaction, account is taken in all cases of the information that is available on the customer from the time he became a customer of the bank or non-bank financial institution, the record of his transactions, his corporate history and the nature of his transactions with Cuban companies.

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**

The Central Bank of Cuba has regulated all aspects of the movement of precious commodities, especially those that have been confiscated from criminals, which are kept in the vaults of the Central Bank.

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as or similar to "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

The above-mentioned Instruction No. 19 regulates SWIFT electronic transfers to and from Cuba by the banking system, which is a member of the SWIFT system. It also stipulates that the operations of non-governmental organizations and their financial relations within and outside of our territory should be monitored with "due diligence".

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The list of persons linked to terrorism, including the United Nations list of members of the Taliban and of the al-Qa'idah organization, is on the shared files of all branches of the Ministry of the Interior that are involved in the fight against terrorism and is part of the obligatory border control procedures for officials of the Department of Immigration and Alien Affairs.

In addition, in the case of the falsification of passports, since the latter are considered to be public documents to be issued and authorized by public officials and with the specific formalities provided for by law, including the authorization of visas, such action will constitute the crime of falsification of public documents provided for and punished under article 250 of the Penal Code, with a term of imprisonment of from three to eight years.

Articles 252, 255 and 259 of the Penal Code provide penalties for the falsification of identity cards, temporary identification documents or other identification documents, for the use of such false documents or for those in possession of them, as well as for the manufacture, importation or possession of equipment to be used in the falsification of documents.

Title VII of the Penal Code deals with crimes against public integrity. Chapter III, article 255, deals with the falsification of documents and punishes such acts with terms of imprisonment of three months to one year or with fines. Article 255 (d) and (e) punishes the tendering of such documents to an authority or public official.

In addition, article 259 provides for punishment of two to five years imprisonment for the manufacture, importation or possession of equipment for the falsification of such documents.

It is proposed to incorporate security features in the preparation of identity and travel documents to facilitate the detection of false documents. These protective and security features have been modernized and improved and are being used in identity cards and passports.

Upon arrival at or departure from all border checkpoints, national and foreign travellers are subject to strict controls by specialized officers of the Department of Immigration and Alien Affairs of the Ministry of the Interior of the Republic of Cuba.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

Where it is learnt that individuals with known links to international terrorism were monitored at border checkpoints, either of these main types of procedures is followed:

- Notification is sent out for their detection at the border itself;
- Notification is sent out for them to be strictly monitored while in the national territory.

17. How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?

The updating of the list of individuals by the Department of Immigration and Alien Affairs of the Ministry of the Interior for use at border checkpoints is done systematically and on the basis of the information provided by the security agencies concerning individuals linked to international terrorism.

To this end, the necessary electronic equipment is available at the points of entry into the country.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

None of the listed individuals have been stopped nor have any attempts by them to enter the national territory been detected.

19. Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?

The list has been circulated to all Cuban consulates abroad, which update them regularly using information from the United Nations web page. To date no visa applications have been discovered.

V. Arms embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer to Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Only the Ministry of the Interior may authorize the import or export of arms and explosives.

Within the territory of the Republic of Cuba, all plants that produce arms and related materiel of all types are under the strict control of the armed forces.

Under the border control system, the Customs Department of the Republic is responsible for controlling the entry of goods into the national territory to prevent international smuggling and the entry of explosives, weapons, drugs and related items.

Where arms and explosives arrive at our borders without the prior authorization of the Ministry of the Interior, they are placed immediately in the storage facilities of the Customs Department, which is responsible for their safe keeping until a determination is made as to their final disposition.

Also in force is Decree-Law No. 52/82 on arms and ammunition and the implementing regulations in Resolution 19/82.

This legislation regulates the manufacture, sale, possession, acquisition, storage and transport of arms and explosives in Cuba. It is currently being improved through a new draft decree-law on arms and ammunition, which deals in greater depth with questions related to international trade.

Cuba is a State Party to the Convention on the Marking of Plastic Explosives for the Purpose of Detection, which it is strictly implementing. In applying that Convention, Cuba employs various techniques for detecting explosives, with a view to preventing or intercepting terrorist actions against its national territory.

There is a body of regulations and an agency responsible for the inspection, surveillance and monitoring of the import, export, transport, storage, use, destruction and disablement of industrial explosives, ignition devices, and their chemical precursors. Those activities are adequately initiated, implemented and monitored.

Because plastic explosives are not manufactured in Cuba, either for civilian or military purposes, the country has no need to purchase chemical substances that might facilitate their detection in accordance with the provisions of the above-mentioned Convention.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertaking and entities associated with them?

Actions to support international terrorism, as well its financing and planning, are duly included in the aforementioned act No. 93, the Law against Acts of Terrorism, which is implemented by all Cuban police and security bodies.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

In the Republic of Cuba the procedure for granting arms licences is extremely restrictive, and is duly controlled by the Ministry of the Interior. There is no arms broker system. As indicated in the answer to the previous question, arms are rigorously controlled by agencies of Cuba's armed forces.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

The control of arms and ammunition by the Ministry of the Interior and the armed forces, whether those circulating domestically or those traded abroad, and the existence of relevant legislation offer a comprehensive safeguard for preventing the trading and smuggling of arms by terrorists and terrorist groups.

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

The Republic of Cuba is willing to cooperate with other States to combat international terrorism. It has even made repeated proposals in that regard to the United States Government, but those proposals have been met with a negative response.

Note verbale No. 543, dated 14 November 2001, addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001), **included the names of eight Cuban experts** who would be willing to provide specialized assistance to the said Committee.

Note verbale No. 547, dated 19 November 2001, addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) included the curriculum vitae of José R. Menéndez Hernández, one of the eight candidates put forward by Cuba to provide specialized assistance to the Committee. The curricula vitae of the other seven candidates had already been submitted to the Counter-Terrorism Committee in note verbale No. 543 of 14 November 2001.

List of Cuban experts available to assist the Counter-Terrorism Committee of the Security Council

Drafting of legal texts

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Julio C. Fernández de Cossío

Carlos Alejandro Pérez Inclán

Financial law and practice

Julio C. Fernández de Cossío

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Michelle Abdo Cuza

Carlos Alejandro Pérez Inclán

Customs law and practice

Héctor Manuel de Moya Martínez

Manuel Ricardo González Gutiérrez

Immigration law and practice

Héctor Manuel de Moya Martínez

Manuel Ricardo González Gutiérrez

Extradition law and practice

José Candia Ferreyra

Julio C. Fernández de Cossío

The police and law enforcement agencies

Manuel Ricardo González Gutiérrez

José Candia Ferreyra

Illicit arms trafficking

José R. Menéndez Hernández

Héctor Manuel de Moya Martínez

Manuel Ricardo González Gutiérrez

25. Please identify any areas, if any, of any incomplete implementation of the Taliban/al-Qa`idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

There has been no incidence of incomplete implementation of the sanctions regime, for which the Government has adopted all the necessary measures in the areas of migration, security and finance. The Republic of Cuba has all the legal and monitoring mechanisms required to deal with circumstances such as those described.

26. Please include any additional information you believe pertinent.

In conclusion, it should be noted that the Government of the Republic of Cuba, in implementing its traditional policy of combating terrorism in all its form and manifestations, has taken the necessary measures to implement Security Council resolution 1455 (2003).

It should also be mentioned that, prior to approval of that resolution, Cuba already possessed the legal provisions necessary for the prevention of activities designed to finance terrorist actions. The necessary precautions had also been taken with respect to the remaining sanctions.

Annexes

Annex 1

Resolution No. 91 of 9 March 1997. This resolution introduced into law the Guide for members of the national banking system on the detection and prevention of illegal capital movements. All members of the national banking system are required to implement the Guide, and the General Auditor is charged with issuing the necessary instructions for its implementation and monitoring.

The Guide establishes a coherent set of general, uniform regulations designed to facilitate joint action by the financial sector to prevent the unlawful use of its services. It also clearly defines the concrete responsibilities of financial institutions in this area, with a view to ensuring that their services are not used for illicit purposes, particularly in operations designed to launder the proceeds of crimes such as drug trafficking and tax evasion. The regulations must be applied by all members of the national banking system. Moreover, failure to introduce or to maintain adequate policies and procedures on money-laundering is one of the criteria taken into account when extending or revoking licences authorizing institutions to carry out banking and financial activities in Cuba.

Sections of the Guide

I. Sets out the principles and objectives of the Guide.

II. Definitions and stages of money-laundering.

III. Policies, procedures and oversight.

IV. Detection procedures.

V. Record-keeping.

VI. Detecting and reporting suspicious financial transactions.

VII. Cooperation with the authorities.

VIII. Training staff to apply the regulations.

Attached to the Guide is an annex on the detection of suspected money-laundering activities in relation to:

A. Cash transactions;

B. Alerting customers;

C. Complex operations and movement of funds.

Annex 2

Instruction No. 1, of 20 February 1998, signed by the General Auditor of the Bank of Cuba, provides additional information on implementing and monitoring the Guide, setting out 19 guidelines, which are to be adapted to the individual characteristics of each institution:

Know your customer. The main aim of the "know your customer" policy is to ensure that financial institutions can predict with relative accuracy the type of transaction that the customer will require.

Identification of customers. Introduces procedures to determine the true identity of the customer and the nature of his activities when opening an account or providing some other banking service.

Obtaining valid customer references. Stresses the importance of obtaining information from reliable sources about the customer's history, taking the necessary steps to verify the customer's identity and the nature of his activities.

Transactions with legal persons. Accounts belonging to legal persons are those most often used for money-laundering, particularly when their "front company" is a legally established entity. It is therefore necessary to identify the directors, officers having authorized signature, and the nature and history of the business.

Opening and managing accounts, by type of account. Employees who assist customers in opening accounts must be trained in the relevant authentication and verification procedures. For the detection of unusual operations, it is advisable to set up a procedure for monitoring account movements.

Depositing and withdrawing cash. It is recommended that a system be established for monitoring the receipt and payment of large-denomination bills and their transfer to other financial institutions.

Loans guaranteed by deposits. Stresses the need to exercise caution in the case of loan operations guaranteed by deposits registered with other domestic or foreign institutions.

Payment instruments. Stresses the need to take particular care when accepting cheques bearing multiple endorsements, whenever the identity of the first beneficiary is not known or cannot be verified. Equal care should be taken in the case of multiple payment orders, postal orders, travellers' cheques, banker's drafts, or other payment instruments.

Securities transactions. It is advised that special attention be paid to the possibility of laundering assets through transactions involving investment in securities.

Numbered accounts. In any cases that might exist, it is imperative that regulations on identifying and knowing the customer, references, and the management of such accounts be applied.

Safe-deposit boxes. Care must be taken in the case of requests for safe-deposit boxes and other types of custodial services, since such services may be used to deposit money, securities or other assets procured by illegal means.

Transfers. Whenever transfers are made repeatedly or for large amounts, and the bank is unable to verify the legitimacy of the funds' origin, a request must be

submitted to the issuing bank for information concerning the identity of its customer and the nature of his activities.

Know your employees. It is advisable to observe the behaviour of employees, especially those whose work involves customer service, receiving deposits, and data control, by establishing the appropriate regulations and controls.

Training staff to implement the established regulations. Care should be taken to provide ongoing training for staff concerning the institution's procedures for applying legal mechanisms, controls, and obligations.

Monitoring compliance with regulations. Monitoring systems should be introduced to ensure compliance with, and regular evaluation of regulations, facilitating review of all the aforementioned aspects.

Enforcing the administrative and legal responsibilities of managers, officers and general staff in the event of failure to comply with the regulations. There must be full understanding of the policies and procedures for the prevention of money-laundering and the criminal responsibilities that may be incurred should the services of the institution be used for that purpose.

Detection of suspected money-laundering operations and adoption of internal bank measures. It is important to be well-informed about the nature of the customer's business, so that an unusual transaction or series of transactions can be more easily detected.

Oversight Officer. Each financial institution has a designated officer, reporting to the most senior management level, who is responsible for identifying and investigating suspected money-laundering activities, whether detected by him or reported to him by the staff. The oversight officer must collaborate with and report to both the Ministry of the Interior and the Central Risk Information Office of the Central Bank of Cuba's Oversight Division.

The oversight officer must also take particular account of the regulations in force on banking secrecy and submission of documents that have been or may be issued by his institution or by the Central Bank of Cuba.

The oversight officer is responsible for the following tasks:

- Formulating policies, programmes or instructions for the prevention of money-laundering;
- Compiling documentation about money-laundering;
- Investigating suspected money-laundering activities reported to the financial institution;
- Preparing reports for senior management;
- Supervising the work of other employees involved in oversight activities;
- Monitoring compliance with oversight regulations established by the institution;
- Applying, within the institution, oversight measures deriving from situations arising at other institutions;

- Preparing information on suspicious transactions which institutions must submit to the Ministry of the Interior and to the Central Risk Information Office of the Central Bank of Cuba's Oversight Division.

Useful information for detecting money-laundering operations and providing legal assistance to the authorities

Financial institutions must establish adequate procedures for monitoring and recording all suspicious operations, in order to facilitate the submission of reports to the auditors, the Bank of Cuba's Oversight Division, and other officials concerned.

Instruction No. 2, of 26 April 2000, signed by the General Auditor of the Central Bank of Cuba, provides additional information on implementing and monitoring the Guide, specifically applicable to illicit activities involving withdrawals and payments in Cuban territory, such as those mainly related to:

1. Withdrawal of money to pay wages or other monies on days other than those stipulated, in larger amounts, or at shorter intervals, than usual.

2. Performance of operations having no relationship to the activities of the entity concerned.

3. Withdrawal of cash by individuals who do not usually do so, even if they appear to be authorized.

4. Relationships with individuals having nothing to do with the entity's usual operations.

Annex 3

Articles of the regulatory instrument

Article 2: Natural or legal persons wishing to transfer money or securities must present to a Cuban bank the relevant authorization from the Central Bank of Cuba and be registered in the country, in accordance with Cuban law.

Article 3: Before executing an electronic funds transfer, banks must obtain precise information from the customer, including full name, address, and account number. The information must be kept, together with the related transfer or communication, for at least five years after the accounts have been closed and the transaction has been finalized.

Article 4: Banks are required to investigate and monitor funds transfers deriving from operations which, because they do not include the complete information referred to in the previous article, raise suspicions of illicit activity. Moreover, they may refuse to execute funds transfers whenever they have good reason to suspect that such transfers may be linked to the financing of terrorist acts or will be used for that purpose.